IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 15250 of 2006(M)

AGAINST THE ORDER DATED 12/10/2004 IN IA.185/04 & 1243/04 IN OS.24/2004 of M.C.,PARAPPANANGADI

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PETITIONER:

SASIKUMAR, S/O.THANNASSERI PARAMBIL
DAMODARAN, TIRUR TALUK, KOTTAKKAL AMSOM DESOM.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. DR.SIVA MENON ALIAS JNANAVALLY MENON,
D/O.PAMBUKATTIL KRISHNAN.

2. C.R.OMANA, D/O.CHARUVILAYIL RAGHAVAN,
TIRUR TALUK, KOTTAKKAL AMSOM DESOM.

3. THENNASSERI PARAMBIL DAMODHARAN,
S/O.KELU, TIRUR TALUK, KOTTAKKAL AMSOM DESOM.

4. DEVAKI, D/O.VAYALAPARAMBIL KUTTIKAN,
TIRUR TALUK, KOTTAKKAL AMSOM DESOM.

5. INDULEKHA, D/O.THENNASSERI PARAMBIL
DAMODARAN AND DEVAKI, KOTTAKKAL AMSOM DESOM,
TIRUR TALUK.

6. AMBILI, DO. DO.

BY ADV. SRI.A.C.SANKARA VARMA FOR R2
SRI.T.SETHUMADHAVAN FOR R3 TO R6
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 15250/06

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE ORDER IN I.A. 185/04 IN O.S. 24/2004 ON THE FILE OF THE COURT OF MUNSIFF OF PARAPPANANGADI DT. 12.10.04

EXT.P2. COPY OF THE ORDER IN C.M.A. 35/2004 ON THE FILE OF THE COURT OF THE SUBORDINATE JUDGE OF TIRUR, DT. 29.11.05

/TRUE COPY/

PA TO JUDGE.

M.N.KRISHNAN, J.

W.P.(C). NO. 15250 OF 2006

Dated this the 6th day of November, 2007

J U D G M E N T

This writ petition is preferred against the order of the subordinate Judge, Tirur in C.M.A. 35/2004. The suit was one for permanent prohibitory injunction with respect to a right of way.

2. A perusal of the orders of the court below would reveal that as per documents A1, A2, B6 and B8 there was a way available up to Kovilakam road. Appellate court also found that the plaintiffs have established a prima facie case, balance of convenience and irreparable injury. The courts below have held so on appreciation of materials. They are concurrent findings on facts. At this stage, it may not be proper for this court to reappreciate the evidence and arrive at a different decision.

Therefore, this writ petition is disposed with a direction to the court below to dispose of the case as expeditiously as possible within a time frame of six months. Needless to say that the trial court shall dispose of the suits untramelled by the observations contained in its order, or the appellate order or order of this court.

With these observations, the writ petition is disposed of.

M.N.KRISHNAN, JUDGE

vps